



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory and Manual Section Manager
Department of Medical Assistance Services

FROM: ELIZABETH A. MCDONALD
Special Counsel to DMAS

DATE: May 4, 2010

**SUBJECT: Final Exempt Regulations – Abortion Coverage (12 VAC 30-50-100,
50-105, 50-110, 50-140, and 50-180)**

You have asked the Office of the Attorney General to review and determine if DMAS has the legal authority to promulgate these final exempt regulations and if they comport with state and federal law.

Based on that review, it is this Office's view that DMAS has the authority, subject to compliance with the provisions of Article 2 of the Administrative Process Act (APA), and has not exceeded that authority.

These regulations are required by Amendment 91 of the 2010 Appropriations Act. It is my view that the promulgation of these regulations is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Virginia Code § 2.2-4006(A)(4)(a).

As these regulations will amend the State Plan, CMS' approval¹ will also be required.

If you have any questions, please feel free to contact me at 786-7363.

cc: Kim F. Piner
Senior Assistant Attorney General

¹ CMS will likely require DMAS to conform the State Plan to Public Law 111-8.